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DEPARTMENT OF ENVIRONMENTAL PROTECTION
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To: **Attention: Docket ID No. EPA-HQ-RCRA-2011-0392**

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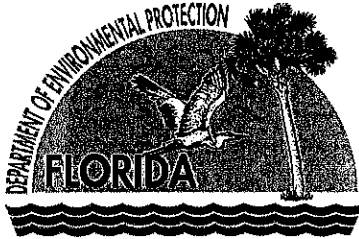
Pages: Including Cover 7 Date: 11/14/11

Re: **Comments on the October 12, 2011 Notice of Data Availability (NODA)
and Request for Comment. Docket ID No., EPA-HQ-RCRA-2011-0392**

Comments: See attached.

Original will NOT follow ☒

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Florida Department of Environmental Protection

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Lt. Governor

Herschel T. Vinyard Jr.
Secretary

November 14, 2011

Attention Docket ID No. EPA-HQ-RCRA-2011-0392:

Environmental Protection Agency
Mailcode: 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460

RE: Comments on the October 12, 2011 Notice of Data Availability (NODA) and Request for Comment. Docket ID No., EPA-HQ-RCRA-2011-0392

Dear Madam/Sir:

The Florida Department of Environmental Protection (DEP) appreciates the opportunity to provide comments to the U.S. Environmental Protection Agency (EPA) in response to the Notice of Data Availability and Request for Comment, published in the Federal Register on October 12, 2011 (76 FR 63252). This letter provides important information on concerns that have been expressed by others on environmental impacts from coal-fired power plants in Florida and the adequacy of Florida's regulatory programs. DEP continues to believe that its existing regulations for managing coal combustion residuals (CCR) in Florida are adequate.

Many of Florida's originally coal-fired power plants no longer use coal, have converted to other fuel sources, and have stopped generating Coal Combustion Residuals (CCR). Twelve of Florida's 80 permitted power plants still use coal as a fuel. With almost 19 million Floridians, most of whom depend on groundwater for their drinking water supplies, Florida's regulatory framework must ensure protection of the groundwater resource. In Florida, our existing regulatory programs are already focused on protecting groundwater and surface water resources from the environmental concerns that are cited in the referenced documents, including the safety of impoundments and potential pollutants from CCR.

While Florida does not have a separate solid waste rule at this time to specifically address the management of CCR, most of Florida's coal-fired power plants are already permitted under the Florida Power Plant Siting Act (PPSA) and the requirements of Florida's industrial wastewater and National Pollutant Discharge Elimination System (NPDES) permit program. One disposal facility is permitted under DEP's solid waste

program. DEP strongly believes that the current regulatory structure in Florida already provides for the protection of human health and the environment in the management of CCR. Here are two examples:

First, facilities permitted under Florida's Power Plant Siting Act are required to meet the substantive requirements of all underlying programs, including all solid waste regulations. Facilities permitted under the industrial wastewater program are required to include solid waste conditions in their permits. As a result, all of Florida's CCR management facilities are required to have groundwater monitoring and most of the newer disposal units have been constructed with bottom liner systems and leachate controls. When these facilities are closed, the owners are required to install appropriate final covers over the disposal areas.

Second, DEP has also begun including additional requirements at the time of renewal of a facility's industrial wastewater NPDES permit. These additional requirements include:

- Impoundment Operation and Maintenance Documentation
- Annual Impoundment Integrity Inspections
- Reporting and Recordkeeping Requirements for Impoundments

In fact, all documents relating to design, construction, operation, and maintenance must be kept on site in accordance with permit conditions and made available to DEP inspectors upon request. These include plans, geotechnical and structural integrity studies, copies of permits, associated certifications by Florida-registered professional engineers, and other regulatory approvals.

In addition to ensuring safe disposal of CCR, Florida's regulatory framework also encourages the beneficial use of CCR under certain conditions. When making beneficial use decisions, Section 403.7045, Florida Statutes, requires DEP to evaluate the potential risks to both human health and the environment before approving a proposed use. The economic and environmental benefits of allowing the safe, beneficial use of coal ash in concrete and similar products help Floridians and visitors enjoy a better quality of life, and we are committed to ensuring that the beneficial use of CCR can continue to safely occur in Florida.

As an enclosure to this letter, DEP also provides a summary of comments concerning specific information contained in the publications "Out of Control: Mounting Damages From Coal Ash Waste Sites" and "In Harm's Way: Lack Of Federal Coal Ash Regulations Endangers Americans And Their Environment" that are listed in the October 12, 2011, Federal Register.

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Once again, we appreciate the opportunity to submit comments and respond to some concerns raised about the adequacy of our regulations for overseeing the disposal of CCR from coal-fired power plants in Florida. If you have any questions, please contact Mr. Richard Tedder, P.E., with DEP's Division of Waste Management, at (850) 245-8735.

Sincerely,

A handwritten signature in black ink, appearing to read 'JL', with a long horizontal stroke extending to the right.

Jeff Littlejohn, P.E.

Deputy Secretary for Regulatory Programs

Enclosure

Summarized Report Comments
Florida Department of Environmental Protection (DEP)
November 14, 2011

**Notice of Data Availability and Requested Comments as published in the October
12, 2011 Federal Register (76 FR 63252)**

Coal Combustion Residuals, Docket ID No. EPA-HQ-RCRA-2011-0392

The comments below are provided for the following two reports:

- *Out of Control: Mounting Damages From Coal Ash Waste Sites*
- *IN HARM'S WAY: Lack of Federal Coal Ash Regulations Endangers Americans and Their Environment*

IN HARM'S WAY: Lack of Federal Coal Ash Regulations Endangers Americans and Their Environment

Throughout the document, various states refer to Florida's adopted groundwater standard for vanadium of 0.049 mg/L. However, Florida has not adopted a vanadium groundwater standard. The 0.049 mg/L standard is the cleanup target level for vanadium adopted under Florida's Contaminant Cleanup Target Levels rule in Chapter 62-777, Florida Administrative Code (F.A.C.), which provides criteria in tables and figures that apply to site rehabilitation.

Out of Control: Mounting Damages From Coal Ash Waste Sites

In the section Summary of Damage Cases, the authors compare the pollutant levels to Florida's cleanup target levels in Chapter 62-777, F.A.C. Since the activities listed in the summary are not subject to these cleanup levels a direct comparison is inappropriate.

Response to Concerns Raised About Four Coal-fired Power Plants in Florida

The Environmental Integrity Project and Earthjustice (collectively called "EIP") have prepared two reports on coal ash waste sites in the country. The first one dated February 24, 2010 is titled, "Out of Control: Mounting Damages From Coal Ash Waste Sites." The second one dated August 26, 2010 is titled, "In Harm's Way: Lack of Federal Coal Ash Regulations Endangers Americans and Their Environment." These reports identify four coal-fired power plants in Florida that are allegedly "a clear and present danger to public health and the environment" using language directly from both reports. DEP believes this characterization of these four facilities listed in Florida is

incomplete and inaccurate. Contrary to the claims by EIP in the reports, DEP is taking necessary enforcement actions to address and correct any environmental issues associated with these facilities. The four facilities and DEP's response to concerns expressed about them are presented as follows:

- Curtis Stanton Energy Center, Orange County – This facility was permitted under the Florida Electrical Power Plant Siting Act (PPSA), Chapter 403, Florida Statutes, Part II, in 1981. At that time, they conducted EP Tox testing to show that their process of adding lime sludge to their ash and then compacting it in their on-site, landfill was protective because of the pozzolanic, "cement like," nature of the ash. While EIP is correct that some contaminants have leached from this landfill and impacted water quality near it, this problem is completely contained on-site and there is no danger of any impacts to human health or potable drinking water wells. DEP is working with the facility to assess the extent of this contamination and conduct corrective actions if necessary. DEP will also require bottom liner systems for any future disposal units at their on-site landfill.
- Seminole Electric Cooperative Inc., Putnam County – This facility was permitted under the PPSA in 1978 and is in compliance with DEP's groundwater requirements. While concentrations of some parameters in water quality results mentioned by EIP exceeded their corresponding primary or secondary groundwater standards, these results were based on samples taken from within the facility's designated zone of discharges where these standards do not apply. Data referenced by EIP for surface water were generated from samples taken in ditches adjacent to the facility's flue gas desulfurization (FGD) landfill, where surface water quality standards do not apply. There have been some areas of stressed vegetation identified in the past in an on-site wetland near the FGD landfill. The cause of this is unknown, but the wetland appears to be recovering. The facility has also implemented a DEP approved Interim Remedial Action Plan, requiring the collection of groundwater from the surficial aquifer near the FGD landfill that is fed back into the power plant process. The process water ponds and stormwater ponds in the landfill area are lined with a geomembrane liner to stop the leakage to groundwater. A liner has been installed over an expanded portion of the FGD landfill and is expected to be put into operation soon. The landfill is monitored by a DEP approved groundwater monitoring system, that is fully protective of the groundwater outside of the facility's designated zone of discharge. Also, under this plan, the groundwater contaminant wells within the facility have also decreased.
- Tampa Electric Company, Big Bend, Hillsborough County – Before the PPSA, this facility was permitted under an Industrial Wastewater permit. In 1979, another unit was added and permitted under the PPSA. Again, much of the

groundwater data cited by EIP were taken from micro wells located adjacent to on-site disposal units of the facility and within the facility's designated zone of discharge, where primary and secondary groundwater standards do not apply. One former disposal unit was believed to have caused stressed vegetation off-site from the facility. As a result of actions by DEP, this unit has been closed. In 2001, the facility also entered into a Consent Order with DEP that required a facility-wide environmental evaluation and corrective actions, if necessary. The facility has been complying with this Consent Order and is implementing appropriate changes as needed to their on-site management of CCR.

- McIntosh Power Plant, City of Lakeland, Polk County - This facility was permitted under the PPSA in 1974. Once again, the groundwater data cited by EIP were taken from monitoring wells located within the facility's designated zone of discharge where primary and secondary groundwater standards do not apply. The facility entered into a Consent Order with DEP on December 7, 2001 which required a facility-wide environmental assessment and corrective actions, if necessary. The facility is complying with DEP's Consent Order.
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